

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

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PLR-102194-14

Date:

July 18, 2014

### LEGEND

T1 =

T2 =

Program =

State =

x =

y =

z =

Dear :

This responds to your request for rulings under § 6041 of the Internal Revenue Code. The issue is whether T1 must file an information return reporting a payment to T2 of \$z.

T1 is a State not-for-profit entity. T2 are homeowners living in State. T1 administers the Program created under State law. The Program is funded by a real estate property tax levy. The Program is designed to protect homeowners who register their homes in the Program from price declines due to local distress and not to compensate them for declines in value due to national economic conditions, accidents, or failure to maintain the property. T2 registered their property with a value of \$x. In 2013, T2 sold their

property, with the approval of T1, for a net price of \$y. T2 received \$z from T1 under the Program. T1 was not advised of T2's adjusted basis in the property.

Section 61(a)(3) provides that gross income includes gain derived from dealings in property.

Section 1001(a) provides that the gain from the sale or other disposition of property is the excess of the amount realized over the adjusted basis provided in § 1011 for determining gain, and the loss is the excess of the adjusted basis provided in § 1011 for determining loss over the amount realized. Under § 1001(c), the entire amount of gain or loss must be recognized, except as otherwise provided.

Section 6041(a) and § 1.6041-1(a)(1)(i) of the Income Tax Regulations provide, with exceptions not applicable here, that all persons engaged in a trade or business and making payment in the course of such trade or business to another person of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income, aggregating \$600 or more in the taxable year must file an information return with the Internal Revenue Service. By § 6041(d), the payor is required to furnish an information statement to the payee.

The § 6041 information reporting requirement applies to payments made during the calendar year to another person of "fixed or determinable income." Section 1.6041-1(a). Section 1.6041-1(c) provides that income is fixed when it is to be paid in amounts definitely predetermined. Income is determinable whenever there is a basis of calculation by which the amount to be paid may be ascertained. Section 1.6041-1(f) provides that the amount to be reported as paid to a payee is the amount includible in the gross income of the payee.

T1's payment to T2 is included in T2's amount realized on the sale of the property. The amount includible in T2's gross income on the sale of the property is excess of the amount realized over T2's adjusted basis. T1, however, represents that it does not know T2's adjusted basis in the property. Therefore, T2 cannot know the amount, if any, of the \$z payment that is included in T2's gross income. See Rev. Rul. 80-22, 1980-1 C.B. 286.

Accordingly, based strictly on the information submitted and the representations made, we conclude that T1's payment of \$z to T2 is not of fixed or determinable income and T1 is not required by § 6041 to file an information return with the Service, nor required to furnish an information statement to T2, for that payment.

We do not express or imply an opinion on the federal tax consequences of any aspect of these transactions other than set forth in the preceding paragraph.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their returns that provides the date and control number of this letter ruling.

The rulings contained in this letter are based upon information and representations that the taxpayer submitted accompanied by a penalty of perjury statement executed by the taxpayer. While this office has not verified any of the material submitted in support of the requests for rulings, it is subject to verification on examination.

We decline to rule on T1's request concerning its information reporting obligations for payments it makes in the future under the Program because the Service ordinarily does not rule on the tax effect of any transaction to be consummated at some indefinite future time. See section 4.02(4) of Rev. Proc. 2014-3, 2014-1 I.R.B. 111.

Pursuant to a power of attorney and declaration of representative filed with this office, we are sending a copy of this letter to the taxpayer's authorized representative.

Sincerely,

Michael J. Montemurro  
Chief, Branch 4  
Office of Associate Chief Counsel  
(Income Tax & Accounting)

cc: